

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ARKEEM EVANS,
Plaintiff,
v.
CORTER, *et al.*,
Defendants.

Case No. 2:22-cv-01377-JDP (PC)

ORDER TO SHOW CAUSE WHY THIS
CASE SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE AND FAILURE
TO STATE A CLAIM

RESPONSE DUE WITHIN TWENTY-ONE
DAYS

On October 4, 2022, the court screened plaintiff's complaint and notified him that it alleged cognizable Eighth Amendment excessive force claims against defendants Corter and Martin, but that the other claims were not adequately pled. ECF No. 8. The court gave plaintiff thirty days to file an amended complaint or advise the court if he wished to stand by his current complaint and proceed only with his Eighth Amendment excessive force claims against Corter and Martin. *Id.* at 3-4. To date, plaintiff has not filed either an amended complaint or a notice of election to proceed on the cognizable claims.

To manage its docket effectively, the court requires litigants to meet certain deadlines. The court may impose sanctions, including dismissing a case, for failure to comply with its orders or local rules. *See* Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110; *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988). Involuntary dismissal is a harsh penalty, but a district court has a duty to administer

1 justice expeditiously and avoid needless burden for the parties. *See Pagtalunan v. Galaza*, 291
2 F.3d 639, 642 (9th Cir. 2002); Fed. R. Civ. P. 1.

3 Plaintiff will be given a chance to explain why the court should not dismiss the case for
4 his failure to file an amended complaint or notice of election to proceed on the cognizable claims.
5 Plaintiff's failure to respond to this order will constitute a failure to comply with a court order and
6 will result in a recommendation that this action be dismissed. Accordingly, plaintiff is ordered to
7 show cause within twenty-one days why this case should not be dismissed for failure to prosecute
8 and failure to state a claim. Should plaintiff wish to continue with this lawsuit, he shall file,
9 within twenty-one days, an amended complaint or advise if he wishes to proceed only with his
10 Eighth Amendment excessive force claims against Corter and Martin.

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12 IT IS SO ORDERED.

13 Dated: December 7, 2022

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15 JEREMY D. PETERSON
16 UNITED STATES MAGISTRATE JUDGE
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